

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE CREDIT SUISSE – AOL SECURITIES LITIGATION	)	Case No. 1:02 CV 12146
	)	(Judge Gertner)
	)	
	)	
	)	
This document relates to:	)	
	)	
ALL ACTIONS	)	
	)	

**DEFENDANT ELLIOTT ROGERS'  
MOTION FOR SUMMARY JUDGMENT**

Defendant Elliott Rogers (“Rogers”) respectfully moves for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. The sole claim against Rogers (Count II) is for control person liability under Section 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”). This claim is premised on alleged control by Rogers over Defendants Jamie Kiggen and/or Laura Martin, who are alleged to have violated Section 10(b) of the Exchange Act by preparing allegedly misleading research reports.

Rogers adopts and incorporates by reference the motion for summary judgment filed by Credit Suisse First Boston (“CSFB”), which establishes that there is no genuine issue of fact that neither Kiggen nor Martin violated Section 10(b). In the absence of any primary violation, the control person claim against Rogers cannot be maintained and should be dismissed.

In addition, there is no genuine issue of fact that Rogers did not exercise any meaningful control over Kiggen or Martin, that Rogers did not influence the content of the research reports at issue and that Rogers acted in good faith at all times. Based on these facts, Plaintiff cannot

establish the elements of liability under Section 20(a) and, in any event, Rogers has a complete affirmative defense based on good faith.

For these reasons, and as discussed further in the Memorandum of Law filed herewith, Rogers is entitled to summary judgment and the Section 20(a) claim (Count II) should be dismissed with prejudice.

**REQUEST FOR ORAL ARGUMENT**

Pursuant to Local Rule 7.1(D), Rogers asks that the Court grant a hearing on his Motion for Summary Judgment.

Respectfully Submitted,

Dated: Boston, Massachusetts  
November 4, 2008

Respectfully Submitted,

BINGHAM MCCUTCHEN LLP

By: /s/ Siobhan E. Mee

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**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(A)(2)**

I hereby certify that I conferred with counsel for Plaintiff and that I attempted in good faith to resolve or narrow the issues raised in this Motion but have not been able to do so.

/s/ Siobhan E. Mee  
Siobhan E. Mee

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF System will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and, except to the extent registered participants at the same firm(s) received copies electronically as identified on the Notice of Electronic Filing, paper copies will be sent to those indicated as non registered participants by U.S. Mail on November 4, 2008.

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